THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NOs : 21559 and 21561 of 2005

Dated: 06-02-2006

W.P.No.21559 of 2005:

Between:

Mohd. Minhajuddin Kousar

..... PETITIONER

AND

Andhra Pradesh State Road Transport

Corporation,

Rep., by its Divisional Manager,

Khammam and three others.

.....RESPONDENTS

W.P.No.21561 of 2005:

Mohd. Azhar

..... PETITIONER

And

Andhra Pradesh State Road Transport

Corporation,

Rep., by its Divisional Manager,

Khammam and three others.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NOs : 21559 and 21561 of 2005

COMMON ORDER:

These two writ petitions, which involve common questions of fact and law, are heard together and decided by this common order.

The petitioners in these two writ petitions were granted licences for sale of safe drinking water in the bus stations of APSRTC for a period of three years with effect from 01-01-2003 to 31-12-2005. Whereas the petitioner in W.P.No.21559

of 2005 was granted such licences in the Bus-stations at Kothagudem and Sathupalli, the petitioner in W.P.No.21561 of 2005 was granted licences in the Bus-stations at Bhadrachalam and Wyra. Accordingly separate agreements were executed between the petitioners and first respondent on 24-12-2002. As per the terms and conditions of the agreements, the petitioners are entitled to sell safe drinking water at the rates specified therein, manufactured either by the petitioners with Certification of Bureau of Indian Standards('BIS' for short) or in the alternative to procure loose water from the holders of BIS Certificate, as their franchise. While so, the respondent-Corporation issued show cause notices calling upon the petitioners to show cause as to why their licences should not be terminated on the ground that they have violated the terms and conditions under the deed of agreements by not selling the water as per the Standards of BIS. In the said notices it was alleged that the petitioners were selling the purified water procured from the sources which are not having BIS certificates.

Though the petitioners claim that they have submitted their explanations denying the allegations, nothing has been placed before this Court to substantiate their plea that the explanations were submitted to the respondent-Corporation within the time specified in the show cause notices.

On the other hand, the specific plea of the
respondent-Corporation is that the petitioners failed to submit their explanations to the show cause notices in spite of the fact that thrice the notices were issued by the respondent–Corporation. It is also alleged that even after receiving the show-cause notices, the petitioners continued to sell the water procured from the local manufacturers without BIS certificates, in violation of Condition Nos.9 and 15 G of the agreements as reflected from the reports dated
30-08-2005 submitted by the Depot Managers concerned. Accordingly, the licences were terminated with immediate effect, by orders dated 08-09-2005, which are under challenge in these writ petitions.

The learned counsel for the petitioners vehemently contended that the allegation that the petitioners were selling water procured from the local manufacturers who do not possess BIS certificates is absolutely false and incorrect. It is further contended that though the petitioners have submitted

their explanations, the respondent-Corporation failed to consider the same and on the other hand, on the basis of the reports dated 30-08-2005 said to have been submitted by the Depot Managers, the licences were terminated unilaterally. It is contended that the said action of the respondents is arbitrary, illegal and in violation of fundamental principles of natural justice.

As noted above, though the petitioners pleaded that they have submitted their explanations, nothing has been placed before this Court to substantiate the said plea.

It is also relevant to note that the licences were valid for a period of three years commencing from 01-01-2003 to 31-12-2005. Admittedly, as on today the licences in favour of the petitioners do not subsist.

However, the learned Counsel for the petitioners, while placing reliance upon a Circular dated 29-10-2003 issued by the respondent-Corporation, contended that as per the resolution passed by the respondent-Corporation, the period of existing licences shall be increased by three more years to complete the maximum licence period of six years. Hence, according to the learned counsel for the petitioners, notwithstanding the fact that the period of licences has already expired, it is necessary to decide the matter on merits.

I am unable to accept the said contention of the learned counsel for the petitioners.

When the licences granted in favour of the petitioners were already terminated on the ground of alleged violation of the conditions of the agreements unless the said termination is found to be bad and illegal, the petitioners cannot claim the benefit of the circular dated 29-10-2003. As on today, the licences in favour of the petitioners are not subsisting and therefore I do not find any substance in the contention of the petitioners that they should be treated on par with the other licensees for extension of licences on the basis of the Circular dated 29-10-2003.

Thus since admittedly as of today, the period of licences has expired, the cause of action does not survive and the matters do not deserve adjudication on merits. That apart, the matter does not involve enforcement of any statutory right, but arise out of non-statutory concluded contracts. Hence, even

assuming that the impugned action is in breach of terms and conditions agreed upon, the relief sought is nothing but enforcement of obligations under non-statutory contract which cannot be granted by this Court in exercise of jurisdiction under Article 226 of the Constitution of India.

Viewed from any angle, the petitioners cannot be granted any relief in these writ petitions. If the petitioners are aggrieved, the remedy lies elsewhere either for damages or for any other appropriate relief but it is not open to them to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

Accordingly, both the Writ Petitions are dismissed. No costs.

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G.ROHINI,J

Dated:06-02-2006

Klp/ghn